

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SECURITY INSURANCE COMPANY  
OF HARTFORD

v.

KOLLER BROTHERS, INC. and  
JUAN CRUZ

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CIVIL ACTION

NO. 07-cv-2932-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

May 7, 2008

\_\_\_\_\_ Plaintiff seeks a declaratory judgment to the effect that it does not owe an obligation to the defendant either to defend or indemnify with respect to certain state court litigation. The defendant Koller Brothers, Inc. has filed a motion to dismiss. After oral argument, I conclude (1) that the allegations of plaintiff's complaint do not rule out the possibility that plaintiff has an obligation to defend against the state court action, and that issue would be better resolved by a motion for summary disposition; and (2) that the issue of indemnification may be, or become, moot in view of the action of the state court in exonerating the defendant Koller. For these reasons, I consider it appropriate to enter an order staying all further proceedings in this action, pending the final resolution of any appeals from the state court judgment.

An Order follows.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SECURITY INSURANCE COMPANY	:	CIVIL ACTION
OF HARTFORD	:	
	:	
v.	:	
	:	
KOLLER BROTHERS, INC.	:	NO. 07-cv-2932-JF

ORDER

\_\_\_\_\_ AND NOW, this 7<sup>th</sup> day of May, 2008, IT IS ORDERED:

1. Defendant's motion to dismiss plaintiff's complaint is DENIED, without prejudice to a motion for summary judgment if deemed appropriate.

2. All further action in this case, with respect to plaintiff's possible obligation to provide indemnity against the state court judgment, shall be deferred until final resolution of any appeals from the pending state court judgment.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.